

**Letter of Findings: 02-20200344
Adjusted Gross Income Tax
For Tax Year 2019**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Partnership failed to provide documentation or explanation regarding whether the amounts reported on their composite schedules were correct, whether they remitted those amounts, and whether the Department took certain withholdings into consideration in processing Taxpayer's 2019 return. Therefore, the protested assessment will not be reduced.

ISSUE

I. Income Tax—Imposition.

Authority: IC § 6-3-4-12; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); Income Tax Information Bulletin 72 (December 2015).

Taxpayer protests the assessment of additional corporate income tax for tax year 2019.

STATEMENT OF FACTS

Taxpayer is a partnership doing business in Indiana. Taxpayer filed a timely 2019 Indiana Partnership composite income tax return reflecting \$639 in Indiana income tax due. Taxpayer received a bill for that amount and filed a timely protest. Taxpayer explained that there was no information explaining why the Indiana Department of Revenue ("Department") changed their tax obligation "as [they] believe . . . the amount was previously withheld." Along with its protest, Taxpayer included a Protest Submission Form indicating their decision to waive their right to a hearing. Thus, this Letter of Findings is based on information provided by Taxpayer in its protest as well as information available to the Department. Additional facts will be provided, as necessary.

I. Income Tax— Imposition.

DISCUSSION

According to the Taxpayer's return and the Department's review, Taxpayer owed \$639 of Indiana income tax for tax year 2019. Accordingly, an assessment was issued, which Taxpayer protested.

As a threshold issue, it is the taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Thus, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); see also *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Indiana Dep't of State Rev. v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Partnerships are required to file composite income tax returns on behalf of nonresident partners. Composite income tax returns reflect the amounts a partnership pays or credits to any of its nonresident partners. In doing so, the partnership becomes liable for the payment of the nonresident partner's Indiana income tax. The partnership must file a return and payment reflecting these amounts. This alleviates the individual partner's responsibility to file an Indiana income tax return. IC § 6-3-4-12(a); Income Tax Information Bulletin 72 (December 2015), 20160127 Ind. Reg. 045160043NRA.

For tax year 2019, Taxpayer filed an Indiana Partnership Return which included a Schedule Composite for its individual nonresident partners and a Schedule Composite-COR for its corporate partners. In total the composite schedules reported \$639 of income due and payable on behalf of Taxpayer's partners. According to the Department's records, this amount was not remitted, thus the Taxpayer has been assessed the base tax of \$639 plus a ten percent late filing penalty.

In its protest, Taxpayer protested the \$639 assessment, but failed to provide sufficient documentation to show that the Indiana tax reported in its composite schedules were wrong, or that the \$639 had been remitted. Based on this lack of documentation, the Department cannot sustain Taxpayer's protest. Therefore, Taxpayer has not met the burden imposed under IC § 6-8.1-5-1(c) of proving the proposed assessment wrong.

FINDINGS

Taxpayer's protest is denied.

November 2, 2020

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